

PECKHAM LASHES THE ICE BARONS. MAYOR VAN WYCK TRIES TO DODGE.

FEARS INDICTMENT!

Van Wyck Claimed, that to Reply to the Charges Made Against Him Might "Incriminate or Degrade Him."

Great Lawyer Says the "Anti-Tweed" Laws Are Constitutional and the Mayor, Carroll and Others Cannot Escape.

State's Prison, "Jake" Sharp and Mayor Van Wyck were all mentioned in the same breath by Wheeler H. Peckham, The World's lawyer, in a scathing rebuke to the dodging Tammany officials in Justice Gaynor's court this afternoon.

The Mayor had failed to make good his promise to "tell all" in The World's proceedings against the criminal Ice Trust and the city officials who have rendered it aid in looting the people. Instead of taking this opportunity to prove himself innocent of any wrongdoing, Mr. Van Wyck sought refuge behind the constitutional provision that no one accused of crime need testify against himself nor say aught that would "incriminate or degrade him." He also raised the point that the Tweed section of the charter does not guarantee him immunity from punishment should an indictment follow The World's accusations.

NO IMMUNITY FOR MAYOR.

Mr. Nicol, though supposed to be President Morse's private counsel, really argued for Mayor Van Wyck and showed that although "Jake" Sharp and the hoodle Aldermen of 184 gave testimony that incriminated them, in the belief that they thus secured immunity, they were sent to Sing Sing.

Mr. Peckham admitted that the latter part of the Mayor's plea was quite right and said:

"The statute provides that a defendant's testimony may not be used against him, but it does not provide that he shall not be tried and sent to State's Prison."

"His answers cannot be used against him, but they can enable the prosecutor to get information that will lead to his conviction."

Justice Gaynor remarked that although the law might not compel any official to incriminate himself, "it could not save him from degradation in the community."

Justice Gaynor ordered briefs submitted to-morrow and will hold an examination on June 3.

PROCEEDINGS IN COURT.

A big crowd packed Justice Gaynor's court-room, in Brooklyn, this morning, gathered in curiosity to find out just what Mayor Robert A. Van Wyck meant when he declared in his first official public interview to a group of reporters: "Tell the people their Mayor is all right."

The people were curious to know whether the Mayor, who said he was anxious to obey the order of Justice Gaynor granted at the instance of The World, would "tell all" he knew about the Ice Trust, or whether he meant that because the Constitution of the United States provides that no man shall be compelled to furnish evidence against himself or to answer any questions which will "tend to degrade or incriminate him, or render him liable to a fine or penalty or forfeiture," he could defy those who want to know if he has \$250,000 worth of Ice Trust stock and "How He Got It."

Wheeler H. Peckham and J. N. Hayes, retained by The World to fight the Tammany Ice Trust under the Tweed law, announced that they should begin the examination of the "all-right" Mayor.

Justice Gaynor took his seat promptly at 10:30 o'clock and began calling the calendar. By this time Messrs. Peckham and Hayes had arrived, but President Morse and his legal retinue had not put in an appearance.

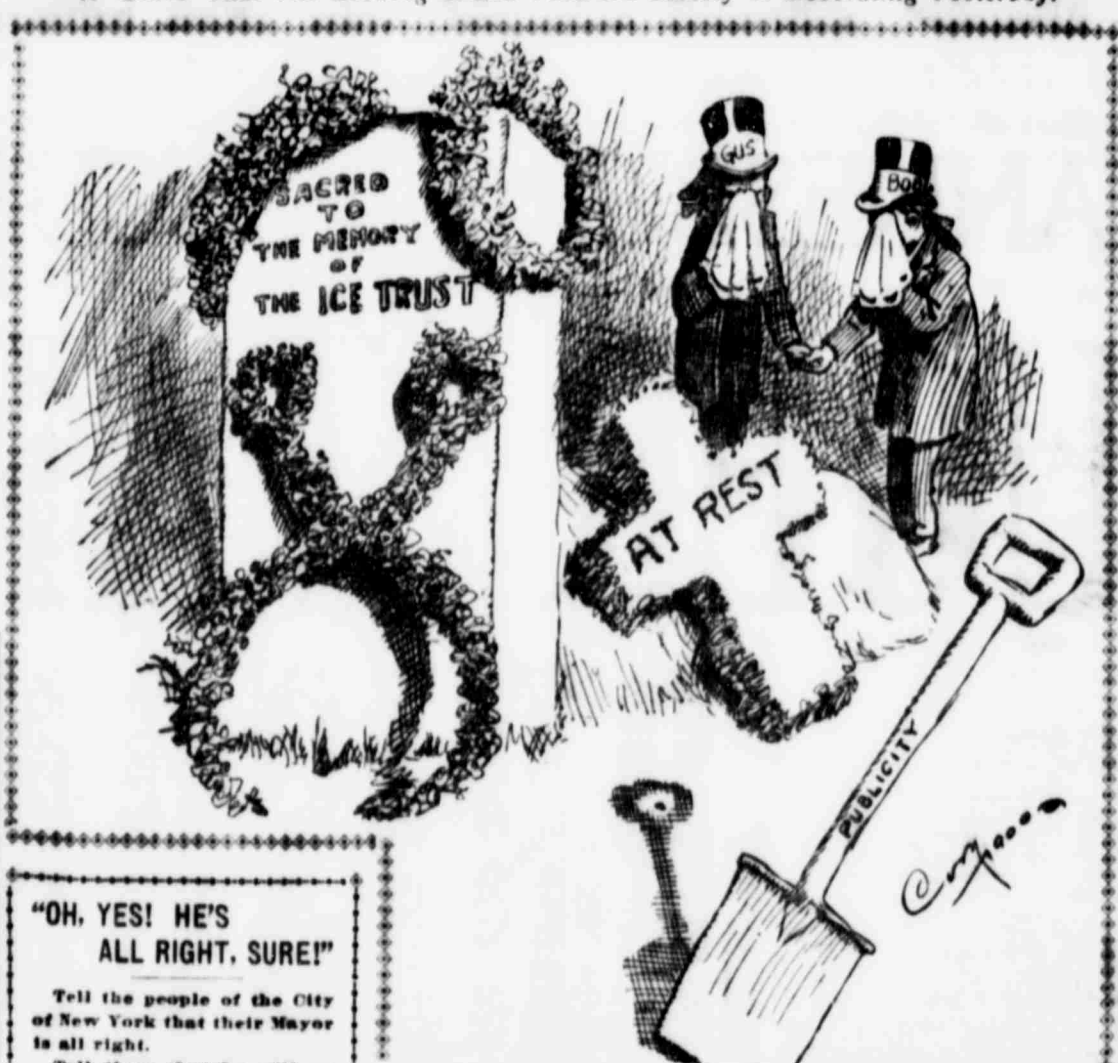
The Mayor, his brother, Augustus Van Wyck, and John F. Carroll entered the court at 10:20 and took seats together. Dock Commissioners Cram and Murphy appeared a few minutes later, accompanied by their lawyer, John L. Caldwell.

"There is a motion by the American Ice Company to dismiss the order," said Justice Gaynor when the case was brought up, "but I have already before me a motion on the part of the Mayor to dismiss the order on constitutional grounds and I will hear that first."

Charles J. Patterson arising said: "I have the honor to appear here for His Honor the Mayor. I move the vacation of the order on two grounds. First, that this law, section 1334 of the City Charter, is in violation of the constitution, in that it attempts to confer upon a Justice of the Supreme Court non-judicial functions and attempts to empower him to perform functions for a non-judicial purpose. Second, that the law's attempt to compel the Mayor to appear and give testimony is a violation of the privileges

"CHEERS FOR THE DEAD ALREADY; HURRAH FOR THE NEXT TO DIE!"

A Grave That The Evening World Took the Liberty of Decorating Yesterday.



"OH, YES! HE'S ALL RIGHT, SURE!"

Tell the people of the City of New York that their Mayor is all right.

Tell them that he will go to court in willing obedience to Justice Gaynor's order, and that in the mean time they need have no fear that any fact can be proven that will in the slightest degree challenge the integrity of his official conduct. He will tell all in court—MAYOR VAN WYCK, MAY 23.

conferred on him by the Constitution of the United States and the Constitution of the State of New York in requiring him to enter upon the question of his innocence or guilt."

President Morse made his appearance at this stage of the proceedings.

CITED THE LAW.

Mr. Patterson cited the provisions of the law. He said the examination should be reduced to writing and filed with the County Clerk.

"So Your Honor will see that you are not compelled by the law to make any decision on the examination, and the purpose of the examination is to get information and file it with a public officer, and on which an administrative officer must pass according to his judgment."

"The only case in which a judge can be required to take testimony is to satisfy his conscience as to what is necessary for a clear decision. It is not a power of legislation to enforce on any other defendant, and any other attempt is an ineffectual exercise of legislative power."

THE MAYOR DODGED.

"A Judge can only take testimony for the purpose of judicial redress," declared Mr. Patterson. "A person cannot be required to enter upon a question of his guilt or innocence unless the Judge can give a decision of either, and this act makes no provision for that."

"I have taken the responsibility of advising the Mayor," cried Mr. Patterson, his voice rising, "to combat this inequitable examination as to whether he has been guilty of an infraction of the law—this action that has been brought by his political enemies for no purpose that can be reached by a judicial decision. He should not take the stand in a process condemned by all authorities and have his testimony filed by the County Clerk to be used by his political enemies or persons who have ulterior motives."

CRIME OR NO CRIME.

As regards the monopoly, Mr. Patterson said, the defendant had been charged with violating and conspiring to violate section 1334 of the charter.

"Under the petition," he declared, "the only information which could be elicited from the defendant would be whether or not he had committed a crime. These questions and no other could be asked, and therefore the defendants could not be compelled to answer."

"In short, it is equivalent to asking the defendant to take the stand for the purpose of proving the indictment."

"This provision of the Constitution is for the protection of the innocent, for no man can be thus called upon and compelled to furnish any link in the chain of evidence against him, however innocent." The Mayor smiled. So did every one else.

CARROLL SEEKS ESCAPE.

Mr. Untermyer followed for John F. Carroll.

Mr. Untermyer said the statute under which his client had been held to court was subversive of his constitutional liberty and without due process of law, inasmuch as no action at law had been brought by any one against him or any one else.

The lawyer said that the charges brought by The World were in effect that the people to be examined as witnesses had been guilty of misdemeanor in that they had conspired unlawfully to use the city's property, the docks and piers, for the benefit of a monopoly in which they were interested, and it was a "monstrous law" that ordains the parties charged with offenses shall be compelled to submit themselves to an examination on the very question of their own guilt or innocence.

"And it is this law that protects the witness by forbidding the use of his testimony against him in any other proceeding," said Mr. Untermyer.

"MIGHT EXPOSE HIM."

"Why, that is adding insult to injury, because what is extorted from him as a witness in this proceeding may lead up to and reveal a line of other evidence of the most damaging character. It may open up and expose all the other evidence which a prosecutor needs and can get in no other way."

Mr. Untermyer also discovered a special and particularly reason why Justice Gaynor hadn't any power to question Mr. Carroll about the \$250,000 of Ice Trust stock he is credited with holding. It was that Carroll is not a city official and it would be monstrous to apply the Tweed law to any plain citizen.

"If the Dock Commissioners were required to produce the records of the Dock Department, could they refuse?" asked Justice Gaynor.

Mr. Untermyer paused. "I think so," he said.

WORLD'S LAWYER SPEAKS.

Mr. Peckham, the World's lawyer, began by saying that all these men took office knowing that provision of the law under which the Mayor and others were summoned to court, but now they interposed a number of objections.

"The people elected these men to positions of trust," continued Mr. Peckham. "When we ask the Mayor of our own city to tell us something about the Ice Trust he interposes what he calls a constitutional provision and says he has the right to administer these things without giving us any account of it at all. Every effort of every organization should be to enforce the law that people should know and have the right to know."

"What we seek here is to ascertain whether these men, in the administration of the government of the city, are conducting the affairs of the municipality as they should for the benefit of the community, or are administering the laws so as to insure to their own persons, benefit and not that of the people."

"The proceeding on which we seek to inform ourselves. They come here and ask to set aside the proceedings that a Justice of the Supreme Court has no right to act in the case. The statutes have been on the books for twenty-five years and they have been enforced."

"The proceeding of a similar character has been tried before the Supreme Court and is now before the Appellate Division, and the opinion is that there is jurisdiction."

should be punished by imprisonment.

A TELLING POINT.

"They say that they can't be compelled to incriminate themselves," said Mr. Peckham, "but before this point can be raised a question must be asked which in the defendants' judgment compels them to say that it would tend to incriminate or degrade them. They and not the court are the sole arbiters. It is the law of this court, it is the law of the United States."

"The statute provides that a defendant's testimony may not be used against him, but it does not provide that he shall not be tried and sent to State's Prison. His answers cannot be used against him, but they can enable the prosecutor to get information that will lead to his conviction."

Mr. Peckham cited as an illustration the case of Jake Sharp.

PROPOSED A TEST.

"Suppose we call one of the officials and ask him to produce the minutes of the Dock Board. They are public and he is the custodian. Does it conclusively appear that the production of the minutes would incriminate one of the Commissioners of Docks so that he should say, 'I won't produce those minutes'?"

"If he comes with the minutes in his hand and refuses to produce them on the ground that they would incriminate him that raises another question. If it does incriminate him we want to know that fact."

CHARGED WITH CRIME.

"These officials are charged with having violated the law, in having aided and abetted the continuance of a monopoly, the existence of which no one denies, a monopoly of the ice trade in the city of New York, and they are charged with having given special privileges to this monopoly for the landing and handling of ice on the public piers of the city of New York to the exclusion of other companies, their competitors, so that those other companies are shut out and denied the right to enter the city and sell their ice in competition with this monopoly."

"We want to know about it. That is all we ask, and if they are not guilty as charged it would seem that they would be glad of opportunities to answer."

Mr. Hayes asked that the question be taken up first by the summoning of outsiders like Mr. Carroll.

Mr. Nicol answered Mr. Peckham and went over nearly all the points that the other trust defenders had made.

He said: "This petition charges these several respondents with several crimes and misdemeanors, and on it the Court has found an order requiring them to come into court and answer questions as to whether they are guilty of these crimes and misdemeanors or not. It

MIDNIGHT ASSAULT IN 5TH AVENUE FLAT

(Continued from First Page.)

One lived stands at the southeast corner of Thirty-ninth street and Fifth avenue. It is four stories, built of brownstone and brick. Once it was one of the finest residences of that fashionable district. Directly across the street is the Union League Club, and diagonally across on the northwest corner are the old Astor residences.

Several years ago the house was renovated and turned into a bachelor apartment-house, with all modern improvements. An elevator was put in and the old stairway was torn out and a new one, winding around the elevator shaft, was substituted.

August Meyer is about thirty-eight years old, tall, heavy-set and wealthy. His apartments are on the third floor, facing Thirty-ninth street and the avenue. They are magnificently furnished. The sitting-room has Pompeian red for its color scheme, the walls are hung

with old tapestries and oil paintings and water colors.

LOVER OF ART. In cabinets are collections of art treasures; on the floor are costly rugs and the furniture is heavy and expensive. A bedroom fittingly furnished leads off from this and a bathroom adjoins. Everything in the suite gives indication that it is the home of a bachelor of wealth and taste.

Walter Platsack, a merchant, has the apartment adjoining Meyer's. The janitor of the building is Charles Nelson, who, with his wife and son Harry, lives on the top floor. Harry, the son, is the mayor's boy.

Neison this morning said that Meyer lived the life of an ordinary clubman and bachelor. He spent his nights at his clubs, returning always about 11 o'clock and he had few visitors. He was quiet and unassuming. He rarely spoke to any of the other tenants. Nelson called him a "good tenant."

The troops have not yet occupied Johannesburg. Gen. French is now at Lands Laage. The guards hold Elandsfontein and Germiston.

The state entry into Johannesburg will take place to-morrow.

The Boers have gone to Pretoria. The railroad from here to the Vaal River is unharmed.

mines are uninjured. Nine engines, a coal train and a great quantity of rolling stock were captured.

The remnants of the Boers' rear guard remained behind and fought in the streets of Germiston, but they were easily cleared out by the Grenadiers.

Colonial Secretary Chamberlain today at the first meeting of the Senate of Birmingham University treated the news as authentic, which he would scarcely do if official confirmation had not been received.

He proposed a message to the Queen congratulating her upon the capture of Johannesburg and Pretoria, which was sent to the afternoon newspapers.

The news has been hailed with exultation in London, and flags are flying everywhere, but there is none of the tumultuous excitement on the

streets which marked the relief of Mafeking.

Opinion is divided here as to whether the fall of Pretoria means a quick termination of the war or not. Kruger's retirement to Waterval-boven, in the mountainous Lydenburg district, where great stores are accumulated, points to a fierce guerrilla resistance.

The Star, which alone among the London evening papers consistently denounced the war, anticipates peace immediately and says the real difficulties of Great Britain are yet to come.

Celebrations were organized in the country towns in honor of the fall of Pretoria. In Chester a public holiday was declared, while at Dover, Portsmouth and many other places in the provinces flags were flown and rejoicings were general.

who, after capturing one extremity of the ridge, wheeled around and worked along it until after dark, clearing it of the enemy, who fought most obstinately. The One Hundred and Fourth led on the other flank and would not be denied, but the chief share in the action, as in the casualties, fell to the Gordons, whose gallant advance excited the admiration of all.

The War office received the following despatch from Lord Roberts, under date of Germiston, May 30:

"In answer to a flag of truce I sent to Johannesburg this morning the Commandant came to see me. He begged me to defer entering the town for twenty-four hours, as there were many armed burghers still inside. I agreed to this, as I am most anxious to avert the possibility of anything like disturbance inside the town, and as the bodies of the enemy are still holding the hills in the immediate neighborhood, from which they will have to be cleared off beforehand."

Gaynor said he must go to Goshen, to open court there Monday. He had intended to decide the motion to-night, and if he decided to go on he would do so on the whole matter must go over until Saturday week.

"The learned counsel for The World has pointed out that the law protected them from the use of their testimony against them in any other proceeding, but you will recall the case of Jacob Sharp, charged with bribing the hoodle Board of Aldermen of 184 to pass the Broadway Railway franchise, how Mr. Sharp was compelled to answer as a witness before a Senate investigating committee under a similar provision of law protecting him from the use of his prosecution."

"But Mr. Sharp's testimony was of the greatest assistance to the District-Attorney in preparing the case against him and others implicated in that famous wholesale bribery, and a number of convictions were secured, including the conviction of Sharp himself."

BOERS ARE CORNERED IN GREAT GOLD MINES.

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prices? Only at our four convenient values. These specials for this week:

BOUSE AND VESTEE SUITS, 3 to 10 years; all-wool blue serge and fancy casimers and chevots; newest combinations, trimmed with pure silk soutache better than the usual \$1.50 to \$2.50 value, for..... \$2.98

BOYS' 1-PIECE SUITS, sizes 10 to 16 years, single-breasted or double-breasted, vest all-wool blue serge and fancy chevots and blue serge; seems reinforced, breeches lined through out everywhere \$5.00 value, here..... \$3.98

BOYS' ROUGH-RIDER SUITS, regular \$4.00 value, special at..... 98c

BOYS' COAT SHIRTS—All colors, sizes 5 to 13 years, value 75c, at..... 48c

SPECIAL IN MEN'S STRIPED FLANNEL SUITS—Very fine patterns, very fine make, very fine value at..... \$8.50

STORES OPEN LATE SATURDAY NIGHT.

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OUTFITTERS TO MEN AND BOYS.

FOUR CONVENIENT STORES: 279 Broadway, near Chambers St.; 47 Cortlandt St., bet. Church & Greenwish St.; 211 & 219 Sixth Avenue, bet. 14th & 15th St.; 125th Street, corner 3d Ave.

HILL FROWNS ON COLER.

Up-State Leader Prefers Judge Parker or Judge Earl.

David Bennett Hill packed a comb and brush case, however, though they were to him, a tooth brush and the only evening clothes he now possesses—pajamas—and firmly gripping his valise, boarded the 10 o'clock train for Albany this morning.

The departure of ex-Senator Hill for the peace and quietude of Wolfert's Roost signalled no brightening of the Democratic horizon. He came to New York and "consulted," but so far as can be learned these consultations resulted in little else than cigars and polite conversation. When it was all over the atmosphere was as dense as ever and heavy weather was predicted.

Nothing whatever was positively decided, although the Democratic State Convention is less than a week off. Mr. Hill came to New York to talk with John F. Carroll and State Senator P. F. McCarren, of Kings, and to express his opinion that the instruction of the State's delegates to Kansas City for Col. Bryan would be unwise. Mr. McCarren agreed with him, but Mr. Carroll, acting under explicit instructions from Mr. Croker, dissented.

That was the net result of Mr. Hill's visit. He listened to the cry of Tammany Hall and he heard the discordant notes of the McLaughlin voice from Brooklyn. There came to him also an echo from Erie, from which county Norman E. Mark announced that his twenty-four delegates would favor an instructed delegation to the banks of the Kaw. Then it was the ex-Senator decided to return home and think it over.

The situation is just this: He has Kings County and very probably a Senator Murphy, of Troy, with him in his personal wishes for an uninstructed delegation. He has Tammany and Erie against him. Mr. Hill is a shrewd man and a veteran in the arts of politics. He wants to be leader of the New York Democracy, he has to be, and he has with this ambition before him he will compromise.

Within the next few days he will carefully scan the names of the delegates to the convention in this city, on June 5, and if, in his judgment, a majority of them favor the instructing for Col. Bryan, he will not utter a word of protest. Hill will not bring on an open fight—that is certain. Under no circumstances will he use a bludgeon to gain his ends. He will give neither Tammany nor Erie nor any other county the opportunity of saying he disrupted the party. He will try to sail into the harbor of his aspirations on a wave of ostensible harmony.

The only matter which seems to be practically settled is that Augustus Van Wyck will not be a delegate at large. Kings County will be represented by James Sheehan. Mr. Hill was firm in this. Judge Van Wyck, by all the laws of precedent, should be one of the four. As the last Democratic candidate for Governor he was entitled to this honor. But as a delegate to what will be an anti-trust convention, his selection would be inconsistent and harmful to the party. In view of his alleged connection with the Ice Trust, argued Mr. Hill, and Mr. McLaughlin's proxies said naught. Therefore the delegates at large will be David B. Hill, of Albany; Edward Murphy, Jr., of Rensselaer; Richard Croker, of New York, and James Sheehan, of Kings.

Should Mr. Hill, by any possibility, declare open warfare against Tammany, the attitude of Elliott F. Danforth would be interesting to contemplate. Mr. Danforth is Chairman of the Executive Committee of the State Committee, and an avowed Bryan man.

"Arnold, Constable & Co., as has been their custom for years, will close their store on Saturday at 12 o'clock noon on the 31st inst., and on the 1st of June, August and September."

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